
FINAL RECOMMENDATIONS FOR ALL BOARDS UNDER THE DEPARTMENT (“CROSSCUTTING RECOMMENDATIONS”)

RECOMMENDATIONS OF THE DEPARTMENT

The Department has identified a few crosscutting issues affecting all boards and the Department’s consumer protection mission. This issues include:

- Complaint disclosure; and
- Board composition.

ISSUE #1. (SHOULD A COMPLAINT DISCLOSURE POLICY BE IN PLACE FOR ALL BOARDS?) Should the Department be given the authority to establish a complaint disclosure policy for all boards to follow?

Recommendation #1: *To ensure equitable treatment of all regulated professions and meaningful public protection, the Department recommends that the Legislature consider giving the Department clear statutory authority to establish a complaint disclosure policy for all boards to follow.*

Comments: A key component of consumer protection is ensuring the availability of information to consumers when they make decisions about selecting practitioners. Providing data regarding complaints filed against DCA licensees is a fundamental part of that information.

Pursuant to 7124.5 of the Business and Professions Code, in 1979 the Department developed a complaint disclosure designed to provide guidance to the boards and bureaus on complaint disclosure. That policy was apparently crafted to provide maximum implementation flexibility to the boards and bureaus, and in recognition of the boards’ independent authority to institute policy. While it states a Departmental policy regarding complaint disclosure, it is of dubious value because it clearly allows boards to implement whatever policy is determined by a board to be suitable.

In the fall of 2000 the Department undertook a review of board and bureau complaint disclosure policies. It is clear from that review that the boards have exercised their autonomous authority to implement various complaint disclosure policies. The result is a wide variety of practices (as permitted under current Departmental policy) within the Department.

The Department expects to conduct public hearings in the summer of 2001 to review the out-dated Departmental policy. Our review of the issue will be accompanied by a parallel review of the implications of California’s Public Records Act and the Information Practices Act, which govern the disclosure of information held by government and personal privacy rights, on the Department’s goal to provide complaint information.

It should be noted that even if the Department promulgates an improved complaint disclosure policy, it appears that the boards retain sufficient autonomy to disregard Departmental policy and implement practices they find preferable.

ISSUE #2. (BALANCED PROFESSIONAL AND PUBLIC REPRESENTATION ON BOARDS?) Should all boards under the Department's jurisdiction have a balance of professional and public members?

Recommendation #2: *The Department recommends that all boards under its purview have a balance of professional and public members. In some instances, this may require either the reduction of the number of professional members or an increase in the number of public members. Generally speaking, the Governor appoints the majority of both public and professional members to the Department's boards. This long-standing practice should not be altered.*

Comments: As a general rule, consumer protection is best served when consumers have balanced representation on the boards under the Department's purview. Consumers are generally represented by a board's public members. Prior to the initiation of the sunset review process, many boards had more professional members than public members. The sunset review process has been effective in bringing greater balance to most Department boards (see Appendix C for legislative changes to board composition). However, eight boards, including the Board of Accountancy, Committee on Dental Auxiliaries, and the Dental Board, have a super majority of professional members (see Appendix D for board composition information).

The primary rationale for professional members on licensing boards is their understanding of the profession they regulate. The Department agrees that technical expertise is important, particularly in disciplinary matters.

Board composition becomes especially significant when a quorum needs to be established. A quorum refers to the number of members required to be present at a meeting in order for a board to vote on significant issues. Currently, the number of board members required to establish a quorum varies among the boards. While a simple majority of members constitutes a quorum for most boards, some require a majority plus one. If a board is unable to establish a quorum, the members present cannot act on issues awaiting board decisions.